

FINAL



**WEARE BOARD OF SELECTMEN
MEETING MINUTES
February 1, 2010**

PRESENT: TOM CLOW, CHAIRMAN; RICHARD W. BUTT, VICE CHAIRMAN; DONNA OSBORNE, SELECTMAN; JAMES DONISON, SELECTMAN; KEITH R. LACASSE, SELECTMAN (entered at 7:50)

TOWN ADMINISTRATOR: Naomi Bolton

RECORDING SECRETARY: Cherry Palmisano

GUESTS: Rad Betts, Steve Najjar, Doug Cook, Ruth Jones, Sherry Burdick, Terry Knowles, Pat Myers, Stephen Pope, Brett Merrill, Eric Masterson, Chuck Bolton

7:00 p.m. Chairman Clow called the meeting to order.

MILDRED HALL ADVISORY COMMITTEE – Ms. Terry Knowles said the Mildred Hall Advisory Committee is before the Board of Selectmen to present a project that would expend funds from the Mildred Hall Trust. Ms. Knowles said there is a proposal to fund a piece of property they would like to put an easement on. The property, Hooker Farm, is located in Melvin Valley and belongs to Mr. and Mrs. Pope. She said that the Piscataquog Land Conservancy asked them in June to support the easement. Ms. Knowles said the Committee agreed to set aside \$50,000 for the project. Ms. Knowles informed the Board that Mr. Eric Masterson, from the Piscataquog Land Conservancy, brought in a formal proposal asking for \$75,000. The Committee took a look at the proposal and decided they could expend \$50,000 and that would be their limit. Ms. Knowles said that on November 11, 2009 the Committee unanimously agreed to expend \$50,000 from the Trust to be put towards the Pope project. The property is just under 20 acres and the Popes have agreed to set aside another 40 acres. The appraisal on the property is \$219,924 with the remaining of the funds for the project coming from various funding sources.

Chairman Clow asked for the balance in the Mildred Hall Trust Fund. Ms. Knowles said they have \$810,000 based on the June figures. Chairman Clow what asked what makes this piece of land valuable to the Trust and the community.

Mr. Eric Masterson, Executive Director of Piscataquog Land Conservancy, said that the soils on the parcel are being recognized at state wide importance. He informed the Board that the state is funding \$100,000, the landowner is donating 25% of the purchase price and they are hoping to receive approval for \$50,000 to come from the Mildred Hall Trust. Chairman Clow asked if the easement is covering only 20 acres or if it includes the additional 40 acres. Mr. Masterson said the easement will only cover 20 acres and what they have done is effectively conserved 60 acres, because behind the 20 acre easement there are two lots of about 23 acres each. The two back lots will be single house lots and be under the ownership of the Popes, the lots will be deed restricted and given to the PLC to enforce the deed restriction. The easement covers conservation and is monitored annually; the deed will ensure the lots do not get subdivided. Chairman Clow asked if a deed restriction guarantees forever. Mr. Masterson said deed restrictions are not usually enforced by a third party; this one will be for perpetuity.

Mr. Masterson said the \$219,000 is the appraised value; the value of the development rights is \$205,000 that the Popes are giving up. He said that the federal program is paying \$102,000, the landowner, by law, cannot donate more than 25% of the value, and the Land Trust is responsible for funding the balance. There are additional

FINAL

costs which total a final budget of \$216,000. The Popes are free to sell if they wish but they cannot dispose of the easement. Mr. Masterson, in response to Selectmen Donison's question, that the soils are determined by the Natural Resource Association.

Ms. Knowles said Mildred Hall was a life long resident of the Town of Weare and she left the bulk of her money to do great things in the town. The remainder of her money was left in a fund to do what is in the best interest to the people of Weare. The Mildred Hall Bequest Committee makes recommendations to the Board of Selectmen and then the Selectmen decide whether or not the project should be funded.

Selectmen Osborne asked if there were any restrictions on the use of the property. Ms. Knowles said the only requirements are that there are no ATVs; there will be complete public access to the large parcel. She said they are pledging \$50,000 towards the 19.5 acres, no restrictions have been discussed, just strictly the purchase. Chairman Clow asked if the Committee discussed public access and said that the Planning Board usually weighs concerns on public access. Ms. Knowles said the Mildred Hall Trust is private money, not public money.

Mr. Steve Najjar, not representing a committee, said he understands the will left the money to the town but he does not understand how it is private money. He is speaking against the easement. Mr. Najjar said they have not heard the whole story, the easement is going to PLC, the town is not the stake holder and no one from the town can step foot on the property the way it stands now. Mr. Najjar said the property is being reserved for windmill rights. Mr. Najjar said in discussing easements, the access is key. He said the remaining land, outside of the 19 acre easement, is only getting deed restriction, not conservation. Mr. Najjar said they have not seen the big picture; there is a potential project in the back lots to get Federal funding for green development. He questions where the town should subsidize green development. Mr. Najjar asked what the town is getting differently from a subdivision proposal because after funding there will be seven house lots. He said the Conservation Commission has been asked for \$16,000 to cover monitoring, so in total they are asking for \$66,000 for something the townspeople cannot step foot on.

Vice Chairman Butt said he noticed that stewardship monitoring costs. Mr. Najjar said that has not been approved yet, but PLC would be the steward of the property.

Ms. Knowles said it is private money, under Mildred Hall's Will she left it to the Town of Weare. There is a set of Statutes and Supreme Court Decisions that have to be followed. Ms. Knowles said that if this were totally public money then the public could seize the money to lower taxes. The Trustees have to spend the money according to requirements. The Committee brings forth their recommendations to the BOS and then the BOS makes the decision. Ms. Knowles said this is private money held for the Town of Weare by the Trustees.

Mr. Masterson said because this is an agricultural easement there are restrictions, there will be crops and year round access will not be guaranteed. He said that the deed restriction on the two back lots will not be restricted. Mr. Masterson said access cannot be guaranteed 24/7 on agricultural easements. Mr. Masterson said they have the majority of the funding if the Mildred Hall Trust is approved. There is a deadline of March 31, 2010 if they do not secure the \$150,000 the federal funding falls apart.

Vice Chairman Butt asked what benefit there is to the community for this piece. Ms. Knowles said Melvin Valley is a very important piece of property in the town. They are buying smaller pieces of larger more important pieces in hopes to purchase more, very important for conservation purposes and is part of a larger plan. Melvin Valley is 2,000 acres.

Ms. Knowles said they set aside \$600,000 which leaves \$260,000 to be invested for short term growth. If they spent \$50,000 they would have \$210,000 for totally expendable funds plus interest in growth. The original bequest was \$1 million. Ms. Knowles said their largest expenditures were used to purchase the Ferrante property and the Brown Family project.

FINAL

Vice Chairman Butt asked about deed restrictions on the property. Mr. Masterson said the deed restrictions on conservation conclude further development, primarily concerned with soil and development. Vice Chairman Butt asked about limiting access to recreation vehicles. Mr. Masterson said it does not mention anything. Vice Chairman Butt asked if the landowner retains ownership. Mr. Masterson said ownership is not affected and the parcel can be sold. Mr. Masterson said that the landowner, arbitrarily cannot restrict access, but it does reserve the right of the landowner to post at certain times of the year. Mr. Masterson said in this case, reading from the deed, there is no mention on restrictions. He said that the landowner maintains the right to post the property which is standard and necessary for agricultural purposes.

Mr. Stephen Pope, landowner, said this is not a recreational easement it is a farm easement. He said because the land is for agricultural use, they do not want people walking through their fields. Mr. Pope feels there needs to be control over access and said that farming is a difficult business and to allow unrestricted access is not in the farmer's best interest. Chairman Clow asked if the income of the easement is being used to develop the rest of the property. Chairman Clow said developing the property cost money and questions if Mr. Pope is selling the easement in order to have funds to develop the rest of the property. Chairman Clow said looking at this from a conservation point of view then he would look at the whole piece. He asked what will happen to the rest of the acreage and is asking if the sale of the easement is to protect the land first and foremost or is the sale of the development rights going to lead to the development of the rest of the acreage. Mr. Pope said they have gone to many other Boards and presented the complete development plan and they have been very open on development. Mr. Pope said there are 19 acres of prime soils, they are saving a back lot for themselves, another back lot for family, there is a 23 acre parcel at the bottom of wetlands, applied to Wetlands Reserve Program, and then for another 25 acres he is proposing a four lot subdivision. He is trying to recoup some of the money to build a house. Chairman Clow said the wetland piece is going to NRCS. Mr. Pope said NRCS puts up money to reserve and restrict the development, but would have public access. He owns other properties without restrictions, but this piece is a farm.

Selectman Lacasse entered the meeting at 7:50 p.m.

Mr. Pope told the Board that this has been a very long process and hopes to get the Selectmen's support. He has spent a lot of money on surveying for the project, maintenance, taxes and a great deal of money getting the conservation easement written.

Mr. Masterson said the Pope's have been very clear on their future projects on the land.

Ms. Pat Myers told the Board that she is interested in the project as an abutter of the lower part of the property. She has been in contact with the Popes and PLC, because she knew the property was in danger of being purchased and developed before the Pope's purchased it. Ms. Myers was afraid of the development of the entire property. She said the Pope's are proposing to protect the prime farm lands on that property. Ms. Myers said in the Conservation Commission's list of criteria of land protection projects, this piece being farmland does not fall neatly into the categories of conservation; it is meant to be agricultural land. She said the Master Plan states that agricultural land is important for preservation. Ms. Myers said the fact that it is farmland, on top of the hill, benefits residents in the area for scenic views.

Mr. Doug Cook said he is worried about the precedence being set for turning money over for this project and not having public access. The Mildred Hall Fund is not private money, but does belong to the town of Weare and taking \$50,000 out of the fund takes money away from other worthwhile projects. Mr. Cook said that he sees no benefit to the town in this project. He said they would be better off with a cluster development which would allow access.

Mr. Chuck Bolton said there is no way you can have public access with farmland and he questions if they should spend money to conserve it. He said the landowners came to the Planning Board with a proposal for a four lot subdivision on 125 acres. Chairman Clow said the plan shows four lots and one would be subdivided into four house lots. Mr. Bolton said the Planning Board did approve the subdivision of the 125 acres. He said

FINAL

there was no discussion of any public money being used and he thinks that the original plan may have changed and they are now requesting more funding. Mr. Bolton said now they are requesting deed restrictions and before there was private ownership and same option of no public access. Mr. Bolton said that on the balance of a 77 acre lot the owners proposed a four lot subdivision in cluster configuration. Mr. Bolton said under cluster regulations it would be open to public access. He said that before any expenditure is approved, he would like to see 77 acres be offered as open space land and then he would feel the presentation to the Planning Board would be fulfilled. Mr. Bolton said that they need to look at the whole picture, need to address the 77 acres and need a firm commitment before voting to approve funding.

Chairman Clow said the requested expenditure is for the appraisal just on development rights for the 19 acres and the deed restrictions on the other pieces are separate. Mr. Bolton said the 77 acres is his greatest concern. Chairman Clow does not know what 77 acres he is talking about. Mr. Bolton said the presentation to the Planning Board totals 77 acres. Mr. Bolton said they would like to get land conserved in the Melvin Valley but would like the whole parcel addressed before investing money in it to make sure what is proposed is what happens.

Mr. Pope said a member of the ZBA approached them looking for conservation buyers and proposed a farmland and a wetlands easement. He said the farmland easement has been approved from the federal government and has also qualified for a wetlands easement. Mr. Pope said they went to the ZBA to ask that the 5 acre minimum requirement be relaxed to 2.5 acres to minimize the land with the barn and farm house and to maximize the land for the agricultural easement. He said that the deed restrictions they are agreeing to would restrict the two back lots to single houses with no deed restrictions.

Ms. Betty Straw said that everyone is entitled to their own opinion, but the Mildred Hall Committee has already funded a great deal of land that is open to the public. They are discussing preserving farmland which has disappeared from this community. She said to the Committee, they feel preserving the farmland is very important and she feels strongly about preserving this farmland. Ms. Straw said the concerns with access can be addressed. The federal funding expires on March 31, 2010 to secure this easement.

Mr. Bolton said he understands the Pope's difficulty with this process and read the minutes from the Planning Board that state Mr. Pope will return to the Planning Board in the future to propose a 77 acre cluster. He thinks they should be looking at the whole 125 acres. Mr. Bolton is not comfortable with this request and feels the proposal that came before the Planning Board was different.

Mr. Brett Merrill questions the wetlands easement and asked Mr. Pope if he will be looking for any future funding. Mr. Pope said he will be looking from funding from NCRS (federal program) but not the Town of Weare. Mr. Merrill said he sees no benefit in discussing the other two lots, even with deed restriction of third party, and feels they should leave the discussion at 20 acres and stop clouding the project. He said he understands there is a group willing to donate and questions if the people that set on that committee are truly a cross section to represent the Town of Weare. Mr. Merrill said they are trying to conserve property and in this case doing so may be financing the development of the property. Mr. Merrill feels the town will see little or no benefit from this easement.

Chairman Clow asked what it means to have PLC hold the deed restriction. Mr. Masterson said this deal is contingent upon the deed restriction to cover the two lots of 20 acres each, in which one lot is subdivided and one is not. The deed will restrict each lot to a single family dwelling with no granting of third party access and will be enforceable by the PLC. Mr. Masterson said the wetlands easement is a separate deal.

Selectman Donison asked the Mildred Hall Trust representatives if the best use of \$50,000 was to put an agricultural easement on this lot. Ms. Knowles said that Melvin Valley has been identified as important in the Master Plan and has prime agricultural soils, which is a rare commodity. She said it depends on whether the Board thinks this is a worthy use of \$50,000. Ms. Knowles said that Mildred Hall was a donor, she specified who recommends to the BOS, and they feel it is an important project because of the prime agricultural soils and

FINAL

the piece is part of Melvin Valley. Ms. Knowles said before tonight, she did not know about the other parcels, but they have discussed this parcel and its primary value for agricultural.

Selectman Osborne would like to table any vote to give the Board time to review the project.

Selectman Lacasse asked what happens to the property if the easement does not pass. Mr. Masterson said the total purchase price is \$205,000. He said half the funding will come from the Federal authorities and they require the rest of the funding to come from the landowner and non profit sources. Mr. Masterson said not getting approval for this funding would jeopardize the easement and if this does not happen it is the Pope's land to do with what they plan with Planning Board approval.

Selectman Donison said it is important to recognize that the Committee is recommending this to the BOS.

Vice Chairman Butt said it is important to him to preserve agriculture. He said the other pieces around the parcel should not be included in the decision of preserving agricultural land because they have no bearing on preserving this piece.

Selectman Donison asked what the development potential of the 19 acres is. Chairman Clow said with the approval of a lot line adjustment and approval from the Planning Board it could open up the possibility of more frontage for buildable lots. Chairman Clow said with deed restrictions it would be restricted to one house. Chairman Clow said they have been discussing for several years the need to preserve agricultural soil. Vice Chairman Butt said he is not concerned with development, but is primarily concerned with protecting the land for agricultural purposes.

Selectman Lacasse asked if this was to pass, what guarantee is there it will be farmed? Chairman Clow said there is no guarantee.

Selectman Osborne moved, Selectman Lacasse second to table the decision until their next meeting. Failed 2-3-0 Chairman Clow, Selectman Lacasse and Selectman Donison were opposed.

Selectman Donison moved, Vice Chairman Butt seconded to approve the expenditure of \$50,000 out of the Mildred Hall Trust to go towards the easement of the Pope property, contingent on getting additional funding. Passed 3-2-0 Selectman Osborne and Selectman Lacasse were opposed.

MANIFESTS

Chairman Clow moved, Selectman Osborne seconded, to authorize the Board of Selectmen to sign Manifest and order the Interim Treasurer to sign checks dated February 4, 2010. Passed 4-0-1 Selectman Lacasse abstained.

Accounts payable	\$157,571.03	
Gross Payrolls	<u>\$43,241.65</u>	(Includes Special Detail, Taxes, Credit Union)
Total	\$200,812.68	

MEETING MINUTES

Chairman Clow moved, Selectman Osborne seconded to approve the minutes of January 4, 2010 as amended. Passed 5-0-0

Chairman Clow moved, Vice Chairman Butt seconded to approve the minutes of January 11, 2010 as amended. Passed 4-0-1 Selectman Donison abstained.

Chairman Clow moved, Selectman Osborne seconded to approve the minutes of January 18, 2010 as amended. Passed 5-0-0

Chairman Clow moved, Selectman Lacasse seconded to approve the minutes of January 25, 2010 as amended. Passed 5-0-0

FOLLOW-UP DISCUSSION OF DELIBERATIVE SESSION – Chairman Clow said Laura Spector approached him the morning of the Deliberative Session and stated that whether article 11 is worded “up to” or

FINAL

“the first” \$90,000, in the eyes of the law it is the same thing. The Board discussed the possibility of having a build up of funds in the Revolving Fund and the possibility of using the money for another purpose and having to go before the voters to expend the funds. The Board needs legal advice on how to word it on the warrant. Selectman Lacasse said he thought the words “up to” would alleviate the build up of funds in the Revolving Fund.

Chairman Clow said he was disappointed that the Deliberative Session was not recorded and only part of it was televised; he felt it was a very positive meeting. Chairman Clow suggested having the Fire Department record their presentation and broadcast it on the cable channel.

Chairman Clow said he would like to hold the question and answer night a week prior to the vote instead of the night before, like in previous years, to be able to rebroadcast it several times for public viewing.

The Board decided to have Chairman Clow write a letter for submission to the newspapers regarding the Fire Department article.

ADMINISTRATIVE REPORT – The Board discussed the draft minutes from the Deliberative Session. Mrs. Bolton, Town Administrator, said they could make any changes next Monday night and finalize the minutes to be included in the Town Report.

CORRESPONDENCE – Chairman Clow said they received a letter of resignation from the Cable Committee from Paul Hague. The Board will send a letter to Mr. Hague thanking him for his years of service.

Chairman Clow said they received notification from the University of New Hampshire informing them that Carl Knapp has achieved Master Road Scholar. This is a 4th achievement level and is the top level that can be reached.

OTHER BUSINESS – Chairman Clow said they need to finalize the personnel policy.

The deadline to submit the Town Report to the printer is February 23, 2010. Mrs. Bolton, Town Administration said she has all the information. It was discussed that 600 copies will be printed, and will include the 16 page auditor’s report and a color cover, for a total of \$2,850. There will be no submission by the Building Committee, Heritage Committee and Economic Development Committee. Town Administrator, Mrs. Bolton said she has started the Town Mailer. Vice Chairman Butt feels there is a lot of waste in the Town Report and will review the Town Report to see what can be condensed, refined or eliminated to help reduce the cost. The report needs to be made available to the public by March 2, 2010.

The Board discussed a legal opinion being given to the Finance Committee regarding recommendations for the John Stark High School budget and not having jurisdiction. Mrs. Bolton, Town Administrator, will get legal opinion as to whether the Finance Committee is able to comment on the John Stark budget because it is a regional budget.

Chairman Clow will draft explanations for each warrant article to be included in the Town Mailer for the Board to review for Monday night’s meeting.

ADJOURNMENT

Selectman Osborne moved, Selectman Lacasse seconded to adjourn at 10:10 p.m. Passed 5-0-0

A True Record.

Cherry Palmisano, Recording Secretary